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10/809,383	03/26/2004	Mathias Sonnek	07781.0160-00	7611

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EXAMINER	
BAIRD, EDWARD J	

ART UNIT	PAPER NUMBER
3695	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,383	SONNEK ET AL.	
	Examiner	Art Unit	
	Ed Baird	3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 December 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-5,7-13,15-21,23-25,27 and 28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-13,15-21,23-25,27 and 28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Applicant has amended claims 1, 9, and 25. No claims have been added or canceled. Claims 6, 14, 22 and 26 had been canceled prior to last office action. Thus, claims 1-5, 7-13, 15-21, 23-25, 27, and 28 remain pending in this application.

Response to Arguments

2. Applicant's arguments and amendments filed on **18 December 2009** with respect to

- objection to specification,
- rejection of claims 9-13, 15 and 16 under 35 U.S.C. § 112, second paragraph
- rejection of claims 1-5, 7-8, 25, 27, and 28 under 35 U.S.C. § 101;
- rejection of claims 1-5, 9-13, and 17-21 under 35 U.S.C. § 103(a) as obvious over U.S. Patent Publication 200210059127 to Brown et al. ("**Brown**") in view of U.S. Patent No. 7,016,870 to Jones et al. ("**Jones**");
- rejection of claims 7, 8, 15, 16, and 23-25 under 35 U.S.C. § 103(a) as obvious over **Brown** and **Jones** in view of U.S. Patent Publication 200510262014 to Fickes ("**Fickes**");
- rejection of claim 27 under 35 U.S.C. § 103(a) as obvious over **Brown**, **Jones**, and **Fickes** in view of U.S. Patent Publication 2004101 58479 to Adhikari ("**Adhikari**"); and
- rejection of claim 28 under 35 U.S.C. § 103(a) as allegedly obvious over **Brown**, **Jones**, **Fickes** and **Adhikari**, in view of **Official Notice**.

have been fully considered.

3. Examiner acknowledges amendments to specification to overcome objection and, in turn, withdraws objection.

4. Examiner acknowledges amendments to claim 9 to overcome 35 U.S.C. § 112, 2nd paragraph rejections of claims 9-13, 15 and 16. However, arguments are not persuasive. The last limitation still contains too much structure to be interpreted under § 112, 6th paragraph. See rejections below.

5. Examiner acknowledges amendments to claim 1 and 25 to overcome 35 U.S.C. § 101 rejections of claims 1-8, 25, 27 and 28 and, in turn, withdraws rejection.

6. Applicant's arguments filed with respect to claims 1-5, 7-1 3, 15-21, 23-25, 27, and 28 regarding the 35 U.S.C. § 103(a) rejections have been fully considered but they are not persuasive.

7. In response to applicant's argument that there is no suggestion to combine the references [Remarks page 15], the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, **Jones** discloses financial advisory system for optimizing portfolio allocations whereas **Brown** discloses method and apparatus for managing an individual investment portfolio while managing tax lots. Both clearly are related to valuating assets (securities) as is the instant invention.

8. Applicant argues **office action/ Jones** does not teach "presenting advice for a degree to which the conditions are satisfied" as recited in claim 1 [Remarks page 17, 1st paragraph and page 18, 2nd paragraph]. Applicant further argues **Jones** does not teach modifying the "advice"

based on the "condition," [Remarks page 19, 1st paragraph]. However, Examiner respectfully disagrees.

9. **Jones** discloses:

> Portfolio optimization is the process of determining a set of financial products that maximizes the utility function of a user. According to one embodiment, portfolio optimization processing assumes that users have a mean-variant utility function, namely, that people like having more wealth and dislike volatility of wealth. Based on this assumption and given a user's risk tolerance, the portfolio optimization module 340 calculates the mean-variance efficient portfolio from the set of financial products available to the user. As described above, *constraints defined by the user* may also be taken into consideration by the optimization process. For example, the user may indicate a desire to have a certain percentage of his/her portfolio allocated to a particular financial product. In this example, the *optimization module 340 determines the allocation* among the unconstrained financial products such that the *recommended portfolio* as a whole accommodates the user's constraint(s) and is optimal for the user's level of risk tolerance [column 17 lines 44-62].

Examiner maintains that *determines the allocation* and the *recommended portfolio* are indicative of Applicant's *presenting advise*. The advise (*determining the allocation*) is based on conditions (*constraints defined by the user*).

10. Applicant argues that it is improper to allege a "condition" on an "intermediate variable" in **Brown** and then rely on **Jones** only to show a "condition" without also showing that **Jones** discloses an "intermediate Variable" [Remarks page 17, 2nd paragraph]. However, Examiner respectfully disagrees.

11. **Brown** discloses:

> Once the present market values of each of the securities in the account are known, the process begins a tax loss harvesting process 54 in which a comparison is initially made to each stored historical cost value *to determine which of the tax lots for each individual account should be harvested for losses* in a select tax harvest securities step 56. The

present market value of each security in each individual account is *compared to the stored historical cost value of the tax lot for that security*. The difference in value is again compared to a predetermined loss threshold, as described above. That tax loss threshold of the preferred embodiment ranges between approximately ten percent (10%) and fifteen percent (15%), although a different threshold value may be appropriate [0043].

12. Examiner maintains *that comparing the market value to the stored historical cost value of the tax lot for that security* is indicative of Applicant's *automatically forming an intermediate variable from the book value and the market value* and *automatically testing the intermediate variable to determine whether it satisfies one or more presettable conditions.* **Brown** generates an intermediate variable to be tested. Examiner has relied on **Jones** to "presenting advice for a degree to which the conditions are satisfied on a display before a sale or purchase of each object" as discussed in the rejection of claim 1, below. Accordingly, Examiner maintains that it is proper to modify **Brown's** invention to include *initial diagnosis of a portfolio* as taught by **Jones.**

13. Applicant argues **Jones** does not teach *presenting advice for a degree to which the conditions are satisfied* [Remarks page 19, 2nd full paragraph]. However, Examiner respectfully disagrees. Examiner indicates in the section of **Jones** disclosed above an example of "a desire to have a certain percentage of his/her portfolio allocated to a particular financial product". Examiner maintains that this *percentage of a particular financial product* is representative of Applicant's *degree to which the conditions are satisfied*.

14. Applicant argues **Brown** teaches away from **Jones** in that **Brown** teaches *the security is automatically sold to provide tax losses for offsetting gains in the portfolio*, [Remarks page 20, 2nd paragraph]. However, Examiner maintains the reason to combine references, as discussed above, is that both references are clearly related to valuating assets.

15. The allegation that **Brown** makes *no provision for the "manner or degree to which one or more of the presettable conditions are satisfied" as claimed in claim 1* [Remarks page 20, 3rd paragraph] is irrelevant in that **Jones** is cited for teaching this limitation.

16. Applicant further states alleged reasons why the **Brown** reference should not be combined with the **Jones** reference [Remarks page 21], but Examiner respectfully maintains reasoning as stated above.

17. Regarding Applicant's request that the Examiner provide evidence of each and every assertion of Official Notice made in the Office Action, Examiner respectfully declines in that the Applicant has not properly traversed Examiner's use of **Official Notice.** As per MPEP §2144.03 C:

> To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2).
>
> If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted

prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

18. Hence, Examiner maintains § 103(a) rejections.

Applicant Admitted Prior Art

19. Examiner notes Applicant has not properly traversed the statements of **Official Notice** made in the art rejections of the prior office action regarding the well known nature of dependent **claim 28**. Hence, the following:

- **Official Notice** is taken that it was old and well-known in the art at the time of the Applicant's invention to *display a difference between the amortized acquisition value and an impairment value of the object when displaying a calculated impairment price.*

is now formally established on record to be **applicant's admitted prior art** (**AAPA**) as per MPEP § 2144.03(C).

Claim Rejections - 35 USC § 112

20. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

21. Claim 9 – 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

22. Regarding **claim 9**, the claim elements:

- means for performing one or more actions depending upon the manner or degree to which one or more of the presettable conditions are satisfied,
- wherein . . .

is "means (or step) plus function" limitations that invokes 35 U.S.C. 112, sixth paragraph. However, it is unclear whether the claim elements are a means (or step) plus function limitations that invokes 35 U.S.C. 112, sixth paragraph, because language following "means for performing one or more actions" in the limitation, recites significant structure beyond "means (or step) plus function". If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to:

(a) Amend the claim to include the phrase "means for" or "step for" in accordance with these guidelines: the phrase "means for" or "step for" must be modified by functional language and the phrase must **not** be modified by sufficient structure, material, or acts for performing the claimed function; or

(b) Show that the claim limitation is written as a function to be performed and the claim does **not** recite sufficient structure, material, or acts for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph. For more information, see MPEP § 2181.

23. Regarding **claims 10 - 13, 15 and 16**, the *wherein clauses* recite significant structure beyond "means (or step) plus function". If applicant wishes to have the claim limitations treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend as described above. These claims are also rejected by way of dependency on a rejected independent claim.

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

25. Claim 1 – 5, 9 – 13, and 17 – 21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Brown et al** (US Pub. No. 2002/0059127) in view of **Jones et al** (US Patent. No. 7,016,870).

26. Regarding **claim 1, Brown** teaches:

- automatically ascertaining, by a processor, a book value for each object in an accounting system [see at least 0018 and 0031. Examiner interprets *cost basis or then present value of each individual security* as analogous to Applicant's **book value**. Examiner notes that because rebalancing, tax loss harvesting, and trading functions are performed automatically by computerized systems [0018], automatically *ascertaining* the book value is inherent in his method].
- automatically determining, by a processor, a market value for each object [0033].
- automatically forming, by a processor, an intermediate variable from the book value and the market value [0033. Examiner interprets *current index value* as analogous to Applicant's **intermediate variable**];
- automatically testing, by a processor, the intermediate variable to determine whether it satisfies one or more presettable conditions [0042 and 0043. Examiner interprets *tax loss harvesting process* as including Applicant's **automatically testing the intermediate variable**]; and

Brown does not explicitly disclose:

- automatically presenting, by a processor, advice for a degree to which the conditions are satisfied on a display before a sale or purchase of each object.

However, **Jones** discloses a financial advisory system which produces forecasts for financial advisory services [column 3 lines 40 – 57]. He further discloses the financial advisory

system which provides an *initial diagnosis* based upon the user's risk preference, savings rate, and desired risk-return tradeoffs [column 6 lines 38 – 44].

Jones discloses recommending portfolio allocations [column 17 lines 44 – 62] and recommending a fixed target asset-mix [column 19 lines 10 – 18] as well as other investment mix/ balancing strategies throughout. He further discloses displaying information to a user [column 7 line 56 – column 8 line 2] and alerts to notify users of advice transmitted immediately to the user by telephone, fax, email, pager, fax, or similar *messaging* system [column 28 lines 24 – 37]. Examiner interprets *messaging systems* as analogous to Applicant's **display for presenting advice.**

Jones discloses *offering advice* regarding which decision variable should be modified to bring the portfolio back on track to reach the one or more financial goals with the desired probability [column 28 lines 24 – 37]. He discloses *recommending reallocation to improve efficiency of the portfolio* [Id.]. An alert may be generated to notify the user of the advice and/or need for affirmative action on his/her part [Id.]. Examiner interprets *advice, alerts,* and *need for affirmative action* as indicative of Applicant's **displaying before (emphasis added) a sale or purchase of each object.** Examiner notes that *advice* by its nature only makes sense if it is offered prior to performing an action (herein, rebalancing a portfolio).

Further, **Jones** discloses *generating portfolio scenarios* and *recommendations* thereof and *exposure to asset classes* [column 4 lines 18 -44]. Examiner interprets such *recommendations* as indicative of Applicant's **degree to which the conditions are satisfied**.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Brown's** invention to include *initial diagnosis of a portfolio* as taught by **Jones** because the diagnosis can result in a series of suggested actions including rebalancing

the portfolio, increasing savings, retiring later, or adjusting investment risk [**Jones** column 6 lines 38 – 44].

27. Regarding **claims 2, 10, and 18, Brown** teaches balance sheet objects as securities [see at least 0013 to 0017].

28. Regarding **claim 3, 11, and 19, Brown** teaches the market value as the price of the object multiplied by the number of units available [see at least 0041 to 0043].

29. Regarding **claims 4, 12, and 20, Brown** teaches the intermediate variable as a difference between the book value and the market value [see at least 0034. Examiner interprets the difference between *the present market value* and *the stored historical cost value* as analogous to Applicant's **intermediate variable**].

30. Regarding **claims 5, 13, and 21, Brown** teaches presettable condition as the disparity between the intermediate value and a maximum disparity for the intermediate variable [see at least 0034. Examiner interprets *predetermined loss threshold* as analogous to Applicant's **maximum disparity for the intermediate variable**] ascertained over a settable period of time by a presettable amount [see at least 0041].

31. **Claims 9 and 17** are a system claim and an apparatus claim, respectively, substantially similar to the method of claim 1, and are thus rejected for the same reasons.

32. Claim 7, 8, 15, 16, and 23-25 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Brown** in view **Jones** in further view of **Fickes** (US Pub. No. 2005/0262014).

33. Regarding **claim 7, Brown** teaches:

- the calculated impairment price as a market price for the object [see at least 0034. Examiner interprets *present market value of each security* as analogous to Applicant's **impairment price**].

Neither **Brown** nor **Jones** explicitly discloses displaying such prices.

However, **Fickes** discloses a system and method for defining values of corporations by its categories of values, and determining risk profiles accordingly [Abstract]. These values include Category I - - Current Realizable Value, Category II -- Value of Existing Business, Category III -- Infrastructure Value, and Category IV --Venture Value. Categories II through IV represent values over (or under) Category I [see at least 0073 to 0081]. **Fickes** further discloses displaying values of the "metrics" for a company. Examiner interprets these *metrics* are being inclusive of Applicant's **calculated impairment price** as a market price (*Category I - - Current Realizable Value*).

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *displaying a calculated impairment price as a market price* as taught by **Fickes** because it allows a user to the user to build a logical set of criteria for defining a peer group by specifying [sic] lower and upper boundaries for any number of metrics [**Fickes** 0133].

34. Regarding **claim 8, Brown** does not explicitly disclose:

- the calculated impairment price as a market price for the object increased or reduced by a presettable value, and
- displaying a calculated impairment price (from claim 1).

Neither **Brown** nor **Jones** explicitly discloses displaying such prices.

However, **Fickes** discloses a system and method for defining values of corporations by its categories of values, and determining risk profiles accordingly [Abstract]. These values include Category I - - Current Realizable Value, Category II -- Value of Existing Business, Category III -- Infrastructure Value, and Category IV --Venture Value. Categories II through IV represent values over (or under) Category I [see at least 0073 to 0081]. **Fickes** further

discloses displaying values of the "metrics" for a company. Examiner interprets these *metrics* are being inclusive of Applicant's **impairment price** as a market price for the object increased or reduced by a presettable value as in *Categories II through IV* discussed herein.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *displaying a calculated impairment price as a market price for the object increased or reduced by a presettable value* as taught by **Fickes** because it allows a user to the user to build a logical set of criteria for defining a peer group by specifying [sic] lower and upper boundaries for any number of metrics [**Fickes** 0133].

35. **Claims 15 and 16** are system claims parallel to the methods of claims 7 and 8, respectively, and are thus rejected for the same reasons.

36. **Claims 23 and 24** are apparatus claims parallel to the methods of claims 7 and 8, respectively, and are thus rejected for the same reasons.

37. Regarding **claim 25, Brown** teaches:

- automatically ascertaining, by a processor, a book value for each object in an accounting system;
- automatically determining, by a processor, a market value for each object;
- automatically forming, by a processor, an intermediate variable from the book value and the market value;
- automatically testing, by a processor, *an* intermediate variable to determine whether it satisfies one or more presettable

as discussed in the rejection of claim 1. **Brown** also teaches:

- automatic forming, by a processor, *the* intermediate variable from the book value and the market value further comprises automatically calculating, by a processor, an

intermediate variable [see at least 0033. Examiner interprets *current index value* as analogous to Applicant's **intermediate variable**];

- automatically testing the intermediate variable to determine whether it satisfies one or more presettable conditions is testing the disparity between the intermediate variable and an average value for the intermediate variable ascertained [see at least 0033 and 0034. Examiner interprets *stored historic cost value* as analogous to Applicant's **average value for the intermediate variable**]
- . . . over a settable period of time by a presettable amount [see at least 0032 to 0034. Examiner interprets *predetermined loss threshold* as analogous to Applicant's **presettable amount**].

Neither **Brown** nor **Jones** explicitly discloses:

- displaying a calculated impairment price.

However, **Fickes** discloses a system and method for defining values of corporations by its categories of values, and determining risk profiles accordingly [Abstract]. These values include Category I - - Current Realizable Value, Category II -- Value of Existing Business, Category III -- Infrastructure Value, and Category IV --Venture Value. Categories II through IV represent values over (or under) Category I [see at least 0073 to 0081]. **Fickes** further discloses displaying values of the "metrics" for a company [00134]. Examiner interprets these *metrics* are being inclusive of Applicant's **impairment price**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *displaying an impairment price* as taught by **Fickes** because it allows a user to build a logical set of criteria for defining a peer group by specifying [sic] lower and upper boundaries for any number of metrics [**Fickes** 0133].

38. Claim 27 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Brown** in view **Jones** in further view of **Fickes** in further view of **Adhikari** (US Pub. No. 2004/0158479).

39. Regarding **claim 27,** neither **Brown, Jones,** nor **Fickes** explicitly disclose:

- a calculated impairment price is displayed comprises drawing attention to the manner and degree to which the presettable conditions are satisfied by means of a screen icon.

However, **Adhikari** discloses methods and systems for calculating business valuations and using iterative processes to generate a maximum business value based on conditions and requirements of interested parties [0002]. He further discloses the use of a "best value" **icon** which generates and displays an optimized value representing required Buyer Equity [see at least 0060, 0069, 0076, and 0083]. Examiner interprets *Buyer Equity* as analogous to Applicant's **impairment price.**

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *using a "best value" icon to generate and display optimized values* as taught by **Adhikari** because it allows a user maximum versatility in determining the factors most critical to a transaction and in calculating the best value of part of a transaction [**Adhikari** 0086].

40. Claim 28 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Brown** in view **Jones** in further view of **Fickes** in further view of **Adhikari** and **Official Notice**.

41. Regarding **claim 28,** neither **Brown**, **Fickes**, or **Adhikari** explicitly disclose:

- displaying a calculated impairment price further comprises **displaying the difference between an amortized acquisition value of the object and an impairment value** of the object

However, **Fickes** discloses determining *Category I, II, III, and IV values* [see at least 0073 to 0082] and displaying related "metric" values [00134]. **Fickes** defines Category III - - Infrastructure values are defined as "the discounted value of expected future cash flows from business which can reasonably be expected to be produced in future years, from new sales" [0079]. Examiner interprets this "*discounted value*" as analogous to Applicant's **amortized acquisition value**. Although **Fickes** does not explicitly disclose the "*difference*" between the **amortized acquisition value and an impairment value of the object,** it would have been obvious to one skilled in the art at the time of **Fickes** disclosure to include the difference in that it would show a user the disparity between determined "values" for a business.

Conclusion

The prior art of record and not relied upon is considered pertinent to Applicant's disclosure:

- **Phillips et al**: "Sensitivity/elasticity-based asset evaluation and screening", (US Patent No. 7,580,876).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571)270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Baird/
Examiner, Art Unit 3695

/Narayanswamy Subramanian/
Primary Examiner, Art Unit 3695